

In Re: American Equity Electric, Inc.)
 Personal Property Account No. P-124238) Shelby County
 Tax year 2006)

The Shelby County Assessor of Property ("Assessor") has valued the subject property for tax purposes as follows:

APPRAISAL	ASSESSMENT
\$50,900	\$15,270

On February 19, 2007, the State Board of Equalization (“State Board”) received an appeal by the taxpayer.¹ As indicated on the appeal form, the property in question was not appealed to the Shelby County Board of Equalization (“county board”) during its regular annual session.

The Assessor's Audit Manager Eric Beaupre, CPA filed a motion to dismiss this appeal for lack of jurisdiction on June 19, 2007. After determining that the appellant had paid the undisputed portion of the tax, the undersigned administrative judge conducted a hearing of the matter on June 26, 2007 in Memphis.² The appellant, Harold Glover, was represented by Charles R. Curbo, Esq. (Memphis). Assistant Shelby County Attorney Thomas Williams and Mr. Beaupre appeared on the Assessor's behalf.

Mr. Glover is the chief executive officer of American Equity Electric, Inc., a Tennessee corporation whose principal office is located at 2755 Park Avenue in the city of Memphis. The property in question is used (or held for use) in the operation of that business.

Due to the taxpayer's failure to file the tangible personal property schedule required by Tenn. Code Ann. sections 67-5-901 *et seq.*, the Assessor levied a "forced assessment" on the subject account in the amount shown above. See Tenn. Code Ann. section 67-5-903(c). On June 1, 2006, the Assessor's office mailed the second of two notices of this assessment, including the deadline for appealing it to the county board. Although both notices were sent to

¹The appeal was electronically filed by Mr. Harold Glover. The required notarization and fee were received by the State Board on March 21, 2007.

²Tenn. Code Ann. section 67-5-1512(b)(1)(C), which applies in Shelby County, provides that “[n]o hearing shall be held on any appeal until the undisputed portion of the tax has been paid.”

the above street address, they incorrectly identified the corporation as “American *Equality* Electric.” Apparently because of this glitch, the taxpayer did not receive – or at least respond to – those notices.³ The ensuing city and county tax bills were also issued in the name of American Equality Electric, complicating Mr. Glover’s efforts to deal with them.

The parties stipulated at the hearing that the value of American Equity Electric’s reportable property on January 1, 2006 was just \$2,500. Consequently, the only issue is whether the State Board has the necessary jurisdiction to change the current assessment.

A taxpayer who is aggrieved by a forced assessment has a right of appeal to the local and state boards of equalization; however, Tenn. Code Ann. section 67-5-1412(b)(1) provides that:

The taxpayer or owner must first make complaint and appeal to the local board of equalization unless the taxpayer or owner has not been duly notified by the assessor of property of an increase in the taxpayer’s or owner’s assessment or change in classification as provided for in section 67-5-508.

But the Tennessee General Assembly has since modified this requirement as follows:

The taxpayer shall have a right to a hearing and determination to show reasonable cause for the taxpayer’s failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the (State Board) shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the time for appeal to the State Board began to run.

Tenn. Code Ann. section 67-5-1412(e), as amended by Acts 2007, Public Chapter No. 133.

Ordinarily, a mere typographical or spelling error in the name of a homeowner printed on a correctly-addressed assessment change notice would not be sufficient to justify a direct appeal to the State Board. Likewise, at first blush, the disparity between the corporate names “American *Equity* Electric” and “American *Equality* Electric” may appear to be relatively insignificant. Yet in the realm of commerce – where vastly different businesses may be entitled and restricted to the use of very similar names – this difference could be crucial. In recognition of this fact, the administrative judge respectfully recommends acceptance of this appeal under the “reasonable cause” statute.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2006:

APPRAISAL	ASSESSMENT
\$2,500	\$750

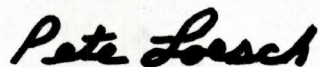
³Mr. Glover testified that his contractor’s license authorized him to do business only as American Equity Electric Inc.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 20th day of July, 2007.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Charles R. Curbo, Attorney
Assistant Shelby County Attorney Thomas Williams
Harold Glover, American Equity Electric, Inc.
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office